

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436

In the Matter of

CERTAIN SEMICONDUCTOR CHIPS  
WITH MINIMIZED CHIP PACKAGE SIZE  
AND PRODUCTS CONTAINING SAME

Inv. No. 337-TA-432

**NOTICE OF COMMISSION DECISION TO AFFIRM ALJ ORDER NO. 33 AND NOT  
TO REVIEW A FINAL INITIAL DETERMINATION FINDING A VIOLATION OF  
SECTION 337; SCHEDULE FOR WRITTEN SUBMISSIONS ON REMEDY, THE  
PUBLIC INTEREST, AND BONDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to affirm ALJ Order No. 33 issued by the presiding administrative law judge (ALJ) on June 1, 2001, and determined not to review the final initial determination (ID) issued by the ALJ on September 25, 2001, finding a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Michael Diehl, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3095. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

Copies of the public version of ALJ Order No. 33, the ID, and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202-205-2000.

SUPPLEMENTARY INFORMATION: On May 3, 2000, the Commission instituted this investigation of allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain semiconductor chips with minimized chip package size or

products containing same. 65 *Fed. Reg.* 25758 (May 3, 2000). The complaint alleged that three respondents had infringed at least claims 6 and 22 of U.S. Letters Patent 5,679,977 (the 977 patent) and claims 1, 3, and 11 of U.S. Letters Patent 5,852,326 (the 326 patent) held by complainant Tessera, Inc. of San Jose, California. The notice of investigation named the following respondents: Texas Instruments of Dallas, Texas ( TI ); Sharp Corporation of Osaka, Japan; and Sharp Electronics Corporation of Mahwah, New Jersey (collectively, Sharp ). On March 2, 2001, the Commission determined not to review an ID granting Tessera s motion to withdraw the complaint allegations as to TI, and to terminate the investigation as to TI. An evidentiary hearing commenced April 5, 2001 and concluded on April 19, 2001.

On April 13, 2001, Sharp filed a motion with the ALJ to reopen the hearing record to include newly-discovered evidence. Sharp subsequently filed several supplements to its motion. Tessera and the Commission investigative attorney (IA) filed responses, and Sharp filed a reply. On June 1, 2001, the ALJ issued Order No. 33, denying Sharp s motion to reopen.

On September 25, 2001, the presiding ALJ issued his final ID, finding a violation of section 337. On October 9, 2001, Sharp appealed Order No. 33 and petitioned for review of the ID. The IA did not file a petition for review. On October 16, 2001, complainant and the IA filed responses opposing Sharp s petition for review and its appeal of Order No. 33.

Having reviewed the record in this investigation, including the parties written submissions, the Commission has determined to affirm Order No. 33 and not to review the ID in its entirety.

In connection with final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in Sharp being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background information, see the Commission Opinion, Certain Devices for Connecting Computers via Telephone Lines, Inv. No. 337-TA-360, USITC Publication 2843 (Dec. 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount to be determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

**WRITTEN SUBMISSIONS:** The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on remedy, the public interest, and bonding. Such submissions should address the October 1, 2001 recommended determination by the ALJ on remedy and bonding. Complainant and the IA are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than the close of business on November 27, 2001. Reply submissions must be filed no later than the close of business on December 4, 2001. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 C.F.R. § 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and sections 210.42, 210.43, 210.45, 210.46, and 210.50 of the Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.42, 210.43, 210.45, 210.46, and 210.50.

By order of the Commission.

Donna R. Koehnke  
Secretary

Issued: November 15, 2001